

SHAINIS & PELTZMAN

COUNSELORS AT LAW

SUITE 500
1255 23RD STREET, N.W.
WASHINGTON, D.C. 20037

202-857-2946

January 19, 1994

AARON P. SHAINIS
202-857-2942

LEE J. PELTZMAN
202-857-2943

ORIGINAL
RECEIVED

JAN 21 1994

FACSIMILE
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY 202-857-2900

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N. W.
Washington, D. C. 20554

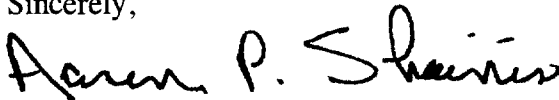
Re: MM Docket No. 93-56

Dear Mr. Caton:

Transmitted herewith, on behalf of Chestnut Broadcasting Company (formerly C. Devine Media, Inc.), are an original and six (6) copies of its Motion to Suspend Procedural Dates in the above-captioned proceeding.

Should any questions arise relative to this matter, please communicate with the undersigned.

Sincerely,



Aaron P. Shainis
Counsel for

CHESTNUT BROADCASTING COMPANY
(Formerly C. Devine Media, Inc.)

Enclosure

DO NOT WRITE ANYTHING

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

ORIGINAL

RECEIVED

JAN 21 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Application of) MM Docket No. 93-56
)
CHESTNUT) File No. BRH-900604YE
BROADCASTING COMPANY)
)
For Renewal of License of)
Station KBER-FM)
Ogden, Utah)
)
STREET STRYDER) File No. BRH-900601A3
)
For Renewal of License of)
Station KQOL-FM)
Spanish Fork, Utah)

To: Administrative Law
Judge John M. Frysiak

MOTION TO SUSPEND PROCEDURAL DATES

Chestnut Broadcasting Company (formerly C. Devine Media, Inc.)("Chestnut"), respectfully requests that all procedural dates in the above-captioned proceeding be suspended. In support, the following is respectfully submitted:

Attached to the instant submission is an Asset Purchase Agreement seeking the sale of Station KBER from Chestnut to Hekili Broadcasting Company ("Hekili") pursuant to the Commission's minority distress sale policy. The Agreement, at Section 7 specifies that within fifteen (15) business days after the determination of the fair market value, buyer and seller shall file with the FCC the required assignment application. Moreover, Section 7.11 specifies that within five (5) business days after the execution of the Asset Purchase Agreement, buyer and seller shall each commission a separate appraisal of the assets to determine the value of the

station. Thus, as the parties are contractually bound to one another and in order to enable the parties to obtain the necessary appraisals, suspension of all procedural dates is warranted.

Respectfully submitted,

By: Aaron P. Shainis
Aaron P. Shainis
Counsel for
CHESTNUT BROADCASTING COMPANY

SHAINIS & PELTZMAN
Suite 500
1255 23rd Street, N. W.
Washington, D. C. 20037

202/857-2946

January 19, 1994

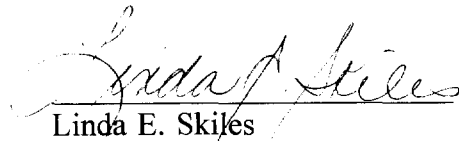
CERTIFICATE OF SERVICE

I, Linda E. Skiles, Office Administrator of the law firm of Shainis & Peltzman, do hereby certify that copies of the foregoing document were mailed this 19th day of January, 1994, to the offices of the following:

Administrative Law
Judge John M. Frysiak *
Federal Communications Commission
Room 223
2000 L Street, N. W.
Washington, D. C. 20554

Y. Paulette Laden, Esq. *
Mass Media Bureau
Federal Communications Commission
Room 7212
2025 M Street, N. W.
Washington, D. C. 20554

Harry C. Martin, Esq.
Suite 350
1001 22nd Street, N. W.
Washington, D. C. 20036



Linda E. Skiles

* Via Hand Delivery

ASSET PURCHASE AGREEMENT
BETWEEN
HEKILI BROADCASTING COMPANY
AND
CHESTNUT BROADCASTING, INC.

DATED
January 14, 1994

INDEX OF SECTIONS

<u>SECTION</u>	<u>HEADING</u>	<u>PAGE</u>
SECTION 1	DEFINED TERMS	1
Section 1.1	Accounts Receivable	2
Section 1.2	Assets	2
Section 1.3	Assumed contracts	2
Section 1.4	Closing	2
Section 1.5	Closing Date	2
Section 1.6	Consents	2
Section 1.7	Contracts	3
Section 1.8	Fair Market Value	3
Section 1.9	FCC Consent	3
Section 1.10	FCC Licenses	3
Section 1.11	Final Order	3
Section 1.12	Licenses	4
Section 1.13	Personal Property	4
Section 1.14	Purchase Price	4
Section 1.15	Schedule Volume	4
SECTION 2	SALE AND PURCHASE OF ASSETS	5
Section 2.1	Agreement to Sell and Buy	5
Section 2.2	Excluded Assets	6
Section 2.3	Purchase Price	7
Section 2.4	Closing Before Final Order	8
Section 2.5	Adjustments and Prorations	8
Section 2.6	Assumption of Liabilities and Obligations	9
SECTION 3	REPRESENTATIONS AND WARRANTIES OF SELLER	10
Section 3.1	Organization, Standing and Authority	10
Section 3.2	Authorization and Binding Obligation	11
Section 3.3	Absence of Conflicting Agreements	11
Section 3.4	FCC Licenses	12
Section 3.5	Title to and Condition of Personal Property	13
Section 3.6	Contracts	14
Section 3.7	Consents	15
Section 3.8	Trademarks, Trade Names and Copyrights	16
Section 3.9	Financial Statements	16
Section 3.10	Insurance	17
Section 3.11	Reports	17
Section 3.12	Employee Benefit Plans	18
Section 3.13	Labor Relations	19
Section 3.14	Taxes	20

<u>SECTION</u>	<u>HEADING</u>	<u>PAGE</u>
Section 3.15	Claims and Legal Actions	21
Section 3.16	Compliance with Laws	21
Section 3.17	Conduct of Business in Ordinary Course	21
Section 3.18	Full Disclosure	22
Section 3.19	Public Inspection File	22
SECTION 4	REPRESENTATIONS AND WARRANTIES OF BUYER	23
Section 4.1	Organization, Standing and Authority	23
Section 4.2	Authorization and Binding Obligation	23
Section 4.3	Absence of Conflicting Agreements	24
Section 4.4	Qualification of Buyer	24
Section 4.5	Litigation	25
Section 4.6	Insolvency	26
SECTION 5	COVENANTS OF SELLER	26
Section 5.1	Pre-Closing Covenants	26
Section 5.1(a)	Negative Covenants	27
	(1) Compensation	27
	(2) Contracts	27
	(3) Disposition of Assets	27
	(4) Encumbrances	28
	(5) Programming	28
	(6) Licenses	28
	(7) Rights	28
	(8) No Inconsistent Action	28
	(9) Facilities	29
	(10) Collective Bargaining Agreement	29
	(11) Corporate Charter	29
	(12) Default	29
Section 5.1(b)	Affirmative Covenants	30
	(1) Access to Information	30
	(2) Maintenance of Assets	31
	(3) Insurance	31
	(4) Consents	31
	(5) Preservation of Business	31
	(6) Notification	31
	(7) Trade and Barter Agreements	32
	(8) Contracts	32
	(9) Compliance with Laws	32
	(10) Payments	32
	(11) Taxes, etc.	32

<u>SECTION</u>	<u>HEADING</u>	<u>PAGE</u>
	(12) Signal	33
	(13) Licenses	33
	(14) Public Inspection File	33
	(15) Consummation	33
	(16) Books and Records	34
	(17) Financial Information	34
Section 5.2	Post-Closing Covenants	34
SECTION 6	COVENANTS OF BUYER	34
Section 6.1	Prior Closing Covenants	34
Section 6.1(a)	Negative Covenants	35
	(1) No Inconsistent Action	35
	(2) Corporate Charter	35
Section 6.1(b)	Affirmative Covenants	35
	(1) Compliance with Laws	35
	(2) Notification	35
	(3) Consummation	35
Section 6.2	Post-Closing Covenants	36
SECTION 7	SPECIAL COVENANTS AND AGREEMENTS	36
Section 7.1	FCC Consent	36
Section 7.2	Control of Station	37
Section 7.3	Accounts Receivable	37
Section 7.4	Taxes, Fees and Expenses	39
Section 7.5	Brokers	40
Section 7.6	Noncompetition Agreements	40
Section 7.7	Confidentiality	42
Section 7.8	Cooperation	43
Section 7.9	Risk of Loss	43
Section 7.10	Broadcast Transmission of Station Prior to Closing	44
Section 7.11	Appraisals	45
SECTION 8	CONDITIONS TO OBLIGATIONS OF BUYER AND SELLER	46
Section 8.1	Conditions to Obligations of Buyer	46
Section 8.1(a)	FCC Approval	46
Section 8.1(b)	Representations and Warranties	46
Section 8.1(c)	Covenants and Conditions	47
Section 8.1(d)	Consents	47
Section 8.1(e)	Licenses	47

<u>SECTION</u>	<u>HEADING</u>	<u>PAGE</u>
Section 8.1(f)	Deliveries	47
Section 8.1(g)	Adverse Change	47
Section 8.1(h)	Litigation and Insolvency	48
Section 8.1(i)	Releases	48
Section 8.2	Conditions to Obligations of Seller	49
Section 8.2(a)	FCC Approval	49
Section 8.2(b)	Representations and Warranties	49
Section 8.2(c)	Covenants and Conditions	49
Section 8.2(d)	Deliveries	49
Section 8.2(e)	Litigation and Insolvency	50
SECTION 9	CLOSING AND CLOSING DELIVERIES	50
Section 9.1	Closing	50
Section 9.2	Deliveries by Seller	50
Section 9.2(a)	Transfer Documents	51
Section 9.2(b)	Consents	51
Section 9.2(c)	Officer's Certificate	51
Section 9.2(d)	Secretary's Certificate	52
Section 9.2(e)	Licenses, Contracts, Business Records, etc.	52
Section 9.2(f)	Noncompetition Agreements by Affiliates	53
Section 9.2(g)	Opinion of Counsel	53
Section 9.2(h)	Consulting Agreement	53
Section 9.3	Deliveries by Buyer	53
Section 9.3(a)	Purchase Price	53
Section 9.3(b)	Assumption Agreements	53
Section 9.3(c)	Officer's Certificate	53
Section 9.3(d)	Secretary's Certificate	54
Section 9.3(e)	Opinion of Counsel	54
Section 9.3(f)	Consulting Agreement	54
SECTION 10	RIGHTS OF BUYER AND SELLER ON TERMINATION OR BREACH	55
Section 10.1	Termination Rights	55
Section 10.2	Specific Performance	56
Section 10.3	57
Section 10.4	Seller's Remedies	57
SECTION 11	SURVIVAL OF REPRESENTATIONS, WARRANTIES AND COVENANTS, AND INDEMNIFICATION	58
Section 11.1	Representations, Warranties, etc.	58
Section 11.2	Notice and Cure	58
Section 11.3	Indemnification by Seller	58
Section 11.4	Indemnification by Buyer	59

<u>SECTION</u>	<u>HEADING</u>	<u>PAGE</u>
Section 11.5	Procedure for Indemnification	60
Section 11.6	Indemnification Fund	62
Section 11.7	Bulk Sales Law	63
Section 11.8	Limitations	63
 SECTION 12	 MISCELLANEOUS	 64
Section 12.1	Notices	64
Section 12.2	Benefit and Binding Effect	65
Section 12.3	Governing Law	65
Section 12.4	Headings	65
Section 12.5	Gender and Number	65
Section 12.6	Entire Agreement	65
Section 12.7	Waiver of Compliance; Consents	66
Section 12.8	Severability	67
Section 12.9	Counterparts	67

ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT is dated as of December, 1993, by and between HEKILI BROADCASTING COMPANY, a Utah corporation ("Buyer") and CHESTNUT BROADCASTING, INC., previously known as C. DEVINE MEDIA, INC., a Delaware corporation ("Seller").

P R E M I S E S:

A. Seller is the licensee of and operates the FM radio station KBER 101.1, Ogden, Utah (the "Station") pursuant to authorizations issued by the Federal Communications Commission (the "FCC").

B. Seller desires to sell, and Buyer wishes to buy, substantially all of Seller's tangible and intangible assets used or useful in the operation of the Station and the broadcast business made possible thereby, and to secure an assignment of certain contracts, leases and agreements, and the licenses, permits and other authorizations issued by the FCC for the operation of the Station, for the price and on the terms and conditions hereinafter set forth.

A G R E E M E N T S:

In consideration of the above premises and the covenants and agreements contained herein, the parties agree as follows:

SECTION 1

DEFINED TERMS

The following terms shall have the following meanings in

this Agreement:

1.1 "Accounts Receivable" means the accounts receivable of Seller arising from services rendered by Seller prior to 12:01 a.m. on the Closing Date as reflected on the billing records of Seller relating to the Station.

1.2 "Assets" means the tangible and intangible assets used or useful in connection with the conduct of business or operations of the Station, which assets are being sold, transferred, or otherwise conveyed to Buyer hereunder, as specified in detail in Section 2.1.

1.3 "Assumed Contracts" means (a) the Contracts described in Section 3.6 hereto, and (b) any Contracts entered into by Seller in the ordinary course of business between the date hereof and the Closing Date which would have been listed on Schedule 3.6 had they been in existence on the date hereof and which Buyer agrees in writing to assume.

1.4 "Closing" means the consummation of the transactions contemplated by this Agreement in accordance with the provisions of Section 9.

1.5 "Closing Date" means the date of the Closing specified in Section 9.

1.6 "Consents" mean all of the consents, permits or approvals of governmental authorities and other third parties necessary to transfer the Assets to Buyer and to assign the Assumed Contracts to Buyer, or otherwise to consummate the

transactions contemplated hereby.

1.7 "Contracts" means all leases, contracts and agreements, written or oral (including any amendments and other modifications thereto) to which Seller is a party and which affect the Assets or the business or operations of the Station, and (a) which are in effect on the date hereof, or (b) which are entered into by Seller in the ordinary course of business between the date hereof and the Closing Date.

1.8 "Fair Market Value" of the Station has the meaning set forth in Section 7.11 of this Agreement.

1.9 "FCC Consent" means action by the FCC granting its consent to the assignment of the FCC Licenses to Buyer on the terms specified in this Agreement.

1.10 "FCC Licenses" means all of the permits and other authorizations issued by the FCC to Seller in connection with the conduct of the business or operations of the Station, including the license for which a Hearing Designation Order and Notice of Forfeiture is now pending (BRH-900604YE) ("Station Broadcast License"), together with renewals, additions and modifications of such permits and authorizations and applications therefor; it being understood that Seller's application for renewal of the FCC Licenses for the Station has been designated for hearing by the FCC.

1.11 "Final Order" means a written action or order issued by the FCC, setting forth the FCC Consent and (a) which has

not been reversed, stayed, enjoined, set aside, annulled or suspended, and (b) with respect to which (i) no requests have been timely filed for administrative or judicial review, reconsideration, appeal or stay, and the time for filing any such requests and for the FCC to set aside the action on its own motion has expired, or (ii) in the event of review, reconsideration or appeal, the time for further review, reconsideration or appeal has expired.

1.12 "Licenses" means all of the licenses, permits and other authorizations, including the FCC Licenses, issued by the FCC and any other federal, state or local governmental authorities, to Seller in connection with the conduct of the business or operations of the Station.

1.13 "Personal Property" means all of the machinery, equipment, tools, vehicles, furniture, leasehold improvements, office equipment, plans, inventory, spare parts, and other tangible personal property which are owned by Seller and used or useful as of the date hereof in the conduct of the business or operations of the Station and are listed on Schedule 3.5 of the Schedule Volume, plus any additions thereto and deletions therefrom arising in the ordinary course of business between the date hereof and the Closing Date.

1.14 "Purchase Price" means the purchase price specified in Section 2.3.

1.15 "Schedule Volume" means the schedules of all

information to be delivered to Buyer by Seller hereunder or referred to herein, to be bound in a separate volume, and initialed by the parties.

SECTION 2

SALE AND PURCHASE OF ASSETS

2.1 Agreement to Sell and Buy. Subject to the terms and conditions set forth in this Agreement, Seller hereby agrees to sell, transfer and deliver to Buyer on the Closing Date, and Buyer agrees to purchase and assume, all of the Assets, free and clear of any claims, liabilities, mortgages, liens, pledges, conditions, charges, security interests or encumbrances of any nature whatsoever (except for those permitted in accordance with Sections 2.6, 3.5 or 3.6 below), more specifically described as follows:

- (a) The Personal Property;
- (b) The Licenses;
- (c) The Assumed Contracts;
- (d) All trademarks, trade names, copyrights, service marks and similar intangible assets listed in Schedule 3.8;
- (e) All of the Seller's documents, computer discs and tapes setting forth technical information and data, machinery and equipment warranties, maps, plans, computer programs, diagrams, blueprints, and schematics relating to the operation of the Station;
- (f) Executed copies of the Assumed Contracts, and

such files, records and logs pertaining to the operation of the Station as Buyer shall reasonably request, including all records required by the FCC to be kept, but excluding the corporate records of Seller, subject to the right of Seller to have such documents and records made available to Seller for inspection and copying, at Seller's expense, for a reasonable period; and

(g) All intangible assets of Seller relating to the Station not specifically described above.

2.2 Excluded Assets. The Assets shall exclude the following assets:

(a) Seller's cash on hand as of the Closing Date and all other cash in any of Seller's bank or savings accounts; and all insurance policies, letters of credit, or other similar items and any cash surrender value in regard thereto; and any stocks, bonds, certificates of deposit and similar investments;

(b) Any Contracts other than the Assumed Contracts;

(c) Any claims, rights and interest in and to any refunds of federal, state or local franchise, income or other taxes or fees of any nature whatsoever for periods prior to the Closing Date;

(d) Any Personal Property specifically designated on Schedule 2.2 as excluded;

(e) Any Accounts Receivable;

(f) Any pension, profit-sharing or employee benefit

plans, and any employee or collective bargaining agreements;
and

(g) The rights of Chestnut II, Inc., an affiliate of Seller, under the time brokerage agreement with Golden Bear Broadcasting, Inc., relating to FM station KZHT, Provo, Utah.

2.3 Purchase Price. The Purchase Price shall be the lesser of:

- (a) 75% of the Fair Market Value; or
- (b) One Million Nine Hundred Thousand Dollars (\$1,900,000), and the Purchase Price shall be payable as follows:

(1) Upon execution of this Agreement, Buyer shall deliver by wire transfer of immediately available federal funds the amount of One Hundred Thousand Dollars (\$100,000) (the "Escrow Deposit") to Escrow Agent, pursuant to the Escrow and Indemnification Fund Agreement attached hereto as Exhibit "A";

(2) At Closing, Buyers shall place an additional One Hundred Fifty Thousand Dollars (\$150,000) of the Purchase Price in an indemnification fund in accordance with Section 11.5 hereof; and

(3) At Closing, Buyer shall deliver by wire transfer of immediately available federal funds the balance of the Purchase Price, as adjusted pursuant to Section 2.5, and less the amount agreed upon by the parties

for Seller's liability under the Assumed Contracts shown on Schedule 3.6, to such account(s) as are designated by Seller in written instructions.

2.4 Closing Before Final Order. If Buyer and Seller mutually agree to close after the issuance of the FCC Consent but prior to the date on which FCC Consent has become a Final Order, the parties will negotiate in good faith an agreement ("Closing and Rescission Agreement") providing for (a) Buyer to assume control over the Station, and (b) the rescission of the sale and return of the parties to their status quo ante if the FCC Consent is rescinded.

2.5 Adjustments and Prorations.

(a) Operation of the Station and the income, expenses and liabilities attributable thereto through 12:01 a.m. on the Closing Date shall be for the account of Seller and thereafter for the account of Buyer. Expenses including, but not limited to, such items as power and utilities charges, ad valorem property taxes upon the basis of the most recent assessment available, prepaid time sales agreements, accrued vacations, payroll taxes, and other fringe benefits of employees of Seller who enter the employment of Buyer, rents and similar prepaid and deferred items shall be prorated between Seller and Buyer as of 12:01 a.m. of the Closing Date, the proration to be made and paid, insofar as feasible, on the Closing Date, with a final settlement sixty (60) days after the

Closing Date.

(b) There shall be no proration with respect to Trade Agreements, except as provided in this subsection. "Trade Agreements" shall mean Contracts for the sale of advertising time for consideration other than cash. Liabilities and obligations under the Trade Agreements shall be prorated in favor of Buyer to the extent that the fair market value of the unperformed air time remaining under such agreements as of 12:01 a.m. on the Closing Date (the "Cut-Off Time") exceeds by Fifteen Thousand Dollars (\$15,000.00) the fair market value of the goods and services to be received by Buyer with respect to the Station after the Closing under such agreements, plus the fair market value of the Station's inventory of goods and services that have been received by the Station prior to the Cut-Off Time and assigned to Buyer hereunder. Buyer shall not be obligated to make any proration in favor of Seller with respect to the Trade Agreements, even if the fair market value of property to be received by Buyer exceeds the liability for unperformed time. All Trade Agreements are itemized on Schedule 3.6.

2.6 Assumption of Liabilities and Obligations. As of the Closing Date, Buyer shall pay, discharge and perform (a) all the obligations and liabilities of Seller under the Licenses and Assumed Contracts insofar as they relate to the period on and after the Closing Date, and arise out of events occurring

on or after the Closing Date, and (b) all obligations and liabilities arising out of events occurring on or after the Closing Date related to Buyer's ownership of the Assets or its conduct of the business or operations of the Station on or after the Closing Date. All other obligations and liabilities of Seller shall remain the obligations and liabilities solely of Seller.

SECTION 3

REPRESENTATIONS AND WARRANTIES OF SELLER

Seller represents and warrants to Buyer as follows:

3.1 Organization, Standing and Authority. Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, and is duly qualified to do business in, and is in good standing in, the State of Utah to conduct the business or operation of the Station. Seller has all requisite corporate power and authority (a) to own, lease, and use the Assets as presently owned, leased and used, (b) to conduct the business or operations of the Station as presently conducted, and (c) to execute and deliver this Agreement and the documents contemplated hereby, and to perform and comply with all of the terms, covenants and conditions to be performed and complied with by Seller hereunder and thereunder. Except with respect to Seller's time brokerage agreement for Station KZHT-(FM) in Provo, Utah, Seller is not a participant in any joint venture or partnership

with any other person or entity with respect to any part of the Station's operations or the Assets.

3.2 Authorization and Binding Obligation. The execution, delivery and performance of this Agreement by Seller have been or will be prior to the Closing Date duly authorized by all necessary corporate actions on the part of Seller and its shareholders. This Agreement has been duly executed and delivered by Seller and constitutes the legal, valid and binding obligation of Seller, enforceable against it in accordance with its terms except as the enforceability hereof may be affected by bankruptcy, insolvency, or similar laws affecting creditors' rights generally, or by court-applied equitable remedies.

3.3 Absence of Conflicting Agreements. Subject to obtaining the Consents, the execution, delivery and performance of this Agreement and the documents contemplated hereby (with or without the giving of notice, the lapse of time, or both): (a) do not require the consent of any third party; (b) will not conflict with any provision of the Articles of Incorporation or Bylaws of Seller; (c) will not conflict with, result in a breach of, or constitute a default under, any law, judgment, order, ordinance, decree, rule, regulation or ruling of any court or governmental instrumentality, which is applicable to Seller; (d) will not conflict with, constitute grounds for termination of, result in a breach of, constitute a default

under, or accelerate or permit the acceleration of any performance required by the terms of, any agreement, instrument, license or permit to which Seller is a party or by which Seller may be bound; or (e) will not create any claim, liability, mortgage, lien, pledge, condition, charge, or encumbrance of any nature whatsoever upon the Assets.

3.4 FCC Licenses. Schedule 3.4 includes a true and complete list of the FCC Licenses. Seller has delivered to Buyer true and complete copies of the FCC Licenses (including any and all amendments and other modifications thereto). Seller is the current authorized legal holder of the FCC Licenses. The FCC Licenses comprise all of the licenses, permits and other authorizations required from the FCC for the lawful conduct of the business or operations of the Station in the manner and to the full extent they are now conducted, and none of the FCC Licenses is subject to any restriction or condition which would limit the full operation of the Station as presently operated, except as stated on such License, as generally affects the broadcast industry, or as limited by laws affecting creditors' rights or equitable principles generally. The FCC Licenses are in full force and effect, and the conduct of the business or operations of the Station is in accordance therewith. Except for the pending FCC proceeding involving Seller's license renewal application and the matters involved therein (hereinafter referred to as "MM Docket No. 93-56"):

(a) Seller has no reason to believe that the FCC Licenses will not be renewed by the FCC or other granting authority in the ordinary course; (b) the FCC Licenses are now and on the Closing Date will be unimpaired and free of restrictions caused by any acts or omissions of Seller, its employees, or its agents; and (c) to the best of Seller's knowledge, there are no applications, complaints or proceedings pending or threatened as of the date hereof before the FCC relating to the business or operations of the Station other than applications, complaints or proceedings which generally affect the broadcasting industry.

3.5 Title to and Condition of Personal Property. Schedule 3.5 lists all material items of the Personal Property as of the date of this Agreement. Except as described in Schedule 3.5, and except for personal property leased pursuant to a contract on Schedule 3.6, Seller owns and has good title to all Personal Property. None of the Personal Property owned by Seller is subject to any security interest, mortgage, pledge, conditional sales agreement, or other lien or encumbrance, except for (a) liens for current taxes not yet due and payable, (b) any other claims or encumbrances which are described in Schedule 3.5, (c) contracts listed on Schedule 3.6, and (d) such claims or encumbrances as shall be removed prior to or at Closing. Except as shown in Schedule 3.5, each item of Personal Property is in satisfactory operating condition and repair

(ordinary wear and tear excepted), and is available for immediate use in the business or operations of the Station. As of Closing all items of transmitting and studio equipment included in the Personal Property will permit the Station to operate in accordance with the terms of the FCC Licenses and the rules and regulations of the FCC, and with all other applicable federal, state and local statutes, ordinances, rules and regulations. On the Closing Date, the Personal Property to be sold to Buyer shall be accepted by Buyer under this Agreement, as is, without any warranty for a particular use, i.e., in the physical condition in which it exists at the time of the Closing.

3.6 Contracts. Schedule 3.6 contains descriptions of all the Contracts as of the date of this Agreement except for: (a) Contracts with advertisers for the sale or sponsorship of time on the Station for cash which are not prepaid and which may be cancelled by the Station without penalty on not more than thirty (30) days notice; (b) employment arrangements and miscellaneous service contracts terminable at will without penalty; and (c) other Contracts not exceeding in the aggregate Five Thousand Dollars (\$5,000) or not involving any material non-monetary obligation. Seller has delivered to Buyer true and complete copies of all written Contracts, and true and complete memoranda of all oral Contracts (including any and all amendments and other modifications to such Contracts), listed in Schedule 3.6. Other than the Contracts, there is no other

contract or agreement necessary for the operation of the Station as presently conducted. To Seller's knowledge, all of the Contracts are in full force and effect, and are valid, binding and enforceable in accordance with their respective terms, except as limited by laws affecting creditors' rights or equitable principles generally. Seller is not in material breach, nor to Seller's knowledge is any other party in breach, of the terms of any of such Contracts. No event has occurred which but for the passage of time or giving of notice or both would or might constitute a material default under the Contracts by the Seller, and there is no outstanding notice of material default or termination under any of the Assumed Contracts. Except as expressly set forth in Schedule 3.6, Seller is not aware of any intention by any party to any Assumed Contract (a) to terminate such contract or amend the terms thereof, (b) to refuse to renew the same upon expiration of its terms, or (c) to renew the same upon expiration only on terms and conditions which are more onerous than those pertaining to such existing contract. Except for the Consents, Seller has full legal power and authority to assign its rights under the Assumed Contracts to Buyer in accordance with this Agreement, and such assignment will not affect the validity, enforceability and continuation of any of the Assumed Contracts, except as disclosed in Schedule 3.6.

3.7 ~~Consents~~. Except for the Consents, no consent,